

[1]

**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH**

S.B. CRIMINAL MISC. PETITION NO.2031/07

Samundra Singh & Anr.

Versus

State

DATE OF ORDER :: 21/11/2007

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. Anil Upman, for petitioners

Mr. Arun Sharma, Public Prosecutor

* * *

Instant petition has been filed assailing order dated 10th January, 2005 and so also revisional order dated 15th September, 2006 assailing the order to the extent taking cognizance against accused-petitioners for offence u/s.3(1)(7)(10) of SC/ST Act, 1989.

Counsel for petitioners pointed out to this court that after FIR was registered, twice investigation was made and after investigation, no challan was filed for alleged offence u/s.3(1)(7)(10) of SC/ST Act.

Learned trial Judge after appreciating the challan papers took cognizance against accused-petitioners for offence u/s.3(1)(7)(10) of SC/ST Act vide order dated 10th January, 2005. It has also been pointed out that other co-accused who are named in the order taking cognizance they all have been released on bail by learned Sessions Judge itself.

[2]

Counsel after making submission on merits confines his submission that in view of other co-accused being released, they are ready to face trial, but no purpose will be served, if they are arrested for offence u/s.3(1)(7)(10) of SC/ST Act and in support of his submission, counsel placed reliance on the judgment of this court reported in Supp. 1997 RCC-499.

So far as merit of the case is concerned, it will not be proper for this court to comment at this stage as it may prejudice the case of either party. Learned Magistrate has taken cognizance and the petitioners shall have full opportunity to make submissions after putting appearance at the stage of framing charge and satisfy the concerned court to discharge them.

In the facts and circumstances of the case, the misc. petition stands disposed of with the following terms:

(i) The petitioners shall surrender/appear before the aforesaid court of learned Magistrate on or before 30th November, 2007. If they do so, they shall be released on bail on furnishing a personal bond in the sum of Rs.25,000/- each with one surety in the like amount to the satisfaction of the aforesaid court for appearance in that court or any other court during pendency of the inquiry or trial as the case may be. Till 30th November, 2007 the petitioners shall not be arrested in pursuance of order dated 10th January, 2005.

[3]

(ii) The petitioners shall be free to raise all points and make submission at the stage of framing charge. Thereafter, if any charge is framed against them, they shall be free to challenge the same in accordance with law.

[AJAY RASTOGI], J.